Supreme Court, U. S.
FILED
JUN 20 1980
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

No. 79-1821

IN THE MATTER OF JOHN A. KESLER

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF INDIANA

MEMORANDUM OPPOSING CERTIORARI

SHELDON A BRESKOW
DAVID B. HUGHES

814 I.S.T.A. Building
150 West Market Street
Indianapolis, Indiana 46204

Attorneys for Respondent,
Indiana Supreme Court
Disciplinary Commission

Central Publishing Company, Inc., Indianapolis, IN 46206

IN THE

Supreme Court of the United States

No. 79-1821

IN THE MATER OF JOHN A. KESLER

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF INDIANA

MEMORANDUM OPPOSING CERTIORARI

Respondent, Indiana Supreme Court Disciplinary Commission, by counsel, respectfully submits that the Petition For Writ Of Certiorari filed herein should be denied.

This matter arises out of the Petitioner's disbarment as an attorney in the State of Indiana. **In Re Kesler** (1979), _____ Ind._____, 397 N.E.2d 574. The facts upon which the subject disbarment was premised are not as contained within the Petitioner's "Statement", but rather are as set forth in the opinion of the Supreme Court of Indiana that is Appendix A to the instant petition.

In his Reasons For Granting The Writ, the Petitioner first asserts in conclusory fashion that under the Fourteenth Amendment to the United States Constitution the sanction of disbarment was unconstitutionally harsh in his case. The Petitioner claims that other Indiana lawyers have been given a lesser sanction for more egregious misconduct. The Petitioner has wholly failed to cite any authority for the proposition that this Court somehow has jurisdiction to review the determination of the Supreme Court of Indiana as to the type of sanction to impose upon a lawyer who has been found to have engaged in professional misconduct. The Respondent has wholly failed to make any showing of a "substantial federal question" or any "special and important reason" such as would invoke the jurisdiction of this Court and call for a review of the decisions below.

The Petitioner's second contention is that the Supreme Court of Indiana was precluded from sanctioning him because a local Indiana Probate Court that had jurisdiction of the estate proceeding that underpined the disbarment action had exonerated the Petitioner before the disbarment action was commenced. The Petitioner's claim here is one of collateral estoppel. However, the Petitioner has failed to cite a single Federal or State constitutional provision, statute, case precedent, rule or regulation in support of this second contention. Therefore, such contention presents no substantial federal question and does not invoke the jurisdiction of this Court.

For the above reasons, it is manifest that this Court lacks jurisdiction to review the judgments below and that the Petition For Writ Of Certiorari should be denied.

Respectfully submitted,

INDIANA SUPREME COURT
DISCIPLINARY COMMISSION

SHELDON A. BRESKOW
DAVID B. HUGHES

814 I.S.T.A Building
150 West Market Street
Indianapolis, Indiana 46204

Attorneys for Respondent,
Indiana Supreme Court
Disciplinary Commission